

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ELENA PYLE,

Civil Action No.:

Plaintiff,

-against-

**COMPLAINT**

PERFORMANT RECOVERY, INC.,

**DEMAND FOR JURY TRIAL**

Defendant.

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Plaintiff, ELENA PYLE (“Plaintiff”), by and through her attorneys, The Law Office of Alan J. Sasson, P.C., as and for her Complaint against the Defendant, PERFORMANT RECOVERY, INC. (hereinafter referred to as “Defendant”), respectfully sets forth, complains and alleges, upon information and belief, the following:

**INTRODUCTION/PRELIMINARY STATEMENT**

1. Plaintiff brings this action on her own behalf for damages and declaratory and injunctive relief arising from the Defendant’s violations of §1692 et seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act.

**PARTIES**

2. Plaintiff ELENA PYLE is a resident of the State of New York, County of Kings.

3. Plaintiff is a “consumer” as the phrase is defined and used in the FDCPA under 15 USC §1692a(3).

4. Defendant PERFORMANT RECOVERY, INC. is a Texas corporation with its principal place of business located at 2763 Southwest Blvd, San Angelo, TX 76904.

5. Defendant is a “debt collector” as the phrase is defined and used in the FDCPA under 15 USC §1692a(6).

### **JURISDICTION AND VENUE**

6. The Court has jurisdiction over this matter pursuant to 28 USC §1331, as well as 15 USC §1692 et seq. and 28 U.S.C. §2201. If applicable, the Court also has pendent jurisdiction over the state law claims in this action pursuant to 28 U.S.C. §1367(a).

7. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

### **FACTUAL ALLEGATIONS**

8. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered “1” through “7” herein with the same force and effect as if the same were set forth at length herein.

9. Upon information and belief, Defendant, on behalf of a third-party, or itself as purchaser of the debt, began efforts to collect an alleged consumer debt from Plaintiff sometime in early 2014, calling from a variety of phone numbers which belong to the Defendant.

10. On or about December 24, 2013, the Defendant called a third party friend of the Plaintiff, and requested that the third party inform the Plaintiff that the Defendant called.

### **FIRST CAUSE OF ACTION**

#### ***(Violations of the FDCPA)***

11. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered “1” through “10” herein with the same force and effect as if the same were set forth at length herein.

12. 15 U.S.C. § 1692c(b) provides that “except as provided in section 1692b of this title, without the prior consent of the consumer given directly to the debt collector, or the express permission of a court of competent jurisdiction, or as reasonably necessary to effectuate a

postjudgment judicial remedy, a debt collector may not communicate, in connection with the collection of any debt, with any person other than the consumer, his attorney, a consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, or the attorney of the debt collector.”

13. Defendant contacted a third party friend of the Plaintiff without the prior consent of the Plaintiff given directly to Defendant.

14. Defendant accordingly violated 15 U.S.C. § 1692c(b) in contacting a third party in attempting to collect a debt from the Plaintiff.

**DEMAND FOR TRIAL BY JURY**

15. Plaintiff hereby respectfully requests a trial by jury for all claims and issues in its Complaint to which it is or may be entitled to a jury trial.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs demand judgment from the Defendant as follows:

- A. For actual damages provided and pursuant to 15 USC §1692k(a)(1);
- B. For statutory damages provided and pursuant to 15 USC §1692k(2)(A);
- C. For statutory damages provided and pursuant to 15 USC §1692k(2)(B);
- D. For attorneys’ fees and costs provided and pursuant to 15 USC §1692k(a)(3);
- E. A declaration that the Defendant’s practices violated the FDCPA;
- F. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: New York, New York  
August 27, 2014

Respectfully submitted,

By: /s/ Yitzchak Zelman  
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*ELENA PYLE*